
(2012) 02 P&H CK 0154
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 8040 of 2011

Gulzar Singh

APPELLANT

Vs

Sunil Kumar and others

RESPONDENT

Date of Decision : 03-02-2012

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2012) 02 P&H CK 0154

Hon'ble Judges : L.N. Mittal, J

Bench : Single Bench

Final Decision : Allowed

Judgement

L.N. Mittal, J.—None is appearing for proforma respondent No.4 in spite of service. Proforma respondent No.3 not served being in army. However, as prayed for by counsel for the petitioner, service of proforma-respondent No.3, who is none else but son of the petitioner himself, is dispensed with.

2. Contesting respondents No.1 and 2 have put in appearance through counsel.

3. I have heard learned counsel for the parties and perused the case file.

4. Defendant No.1-Gulzar Singh has filed the instant revision petition under Article 227 of the Constitution of India impugning order dated 21.02.2011 (Annexure P-2) passed by learned District Judge, Ferozepur thereby dismissing first appeal preferred by the petitioner for non-payment of Court fee.

5. Suit filed by respondents No.1 and 2-plaintiffs against defendant No.1-petitioner and proforma respondents No.3 and 4, who are sons of the petitioner, stands decreed against defendant No.1-petitioner only for recovery of principal amount of Rs.1,67,920.75 with interest thereon @ 12% per annum from the date of last transaction till filing of suit and also pendente lite future interest @ 6% per annum from the date of filing of suit till recovery. Defendant No.1-petitioner preferred first appeal against judgment and decree of the trial Court.

However, in spite of sufficient time granted to the petitioner, he failed to pay requisite court fee for first appeal and therefore, first appeal was dismissed by impugned order dated 21.02.2011 for non-payment of Court fee.

6. Learned counsel for the petitioner states that the petitioner is now ready to pay the Court fee for first appeal.

7. I have carefully considered the aforesaid submissions. I am of the considered opinion that ends of justice would be met if petitioner is granted opportunity to pay requisite Court fee for first appeal on payment of cost.

8. Accordingly the instant revision petition is allowed and first appeal filed by the petitioner is restored to the files of the lower Appellate Court, subject to the condition that the petitioner shall pay requisite Court fee for the first appeal within two months from today and also subject to further condition that the petitioner shall pay Rs.3,000/-as cost precedent to respondents No.1 and 2/ plaintiffs. Parties are directed to appear before the lower appellate Court on 07.03.2012.